

1 Mark Brnovich
2 Attorney General

3 James Driscoll-MacEachron (027828)
4 Kara M. Karlson (029407)
5 Assistant Attorneys General
6 1275 W. Washington
7 Phoenix, Arizona 85007-2997
8 Telephone: (602) 542-3333
9 Fax: (602) 542-8308
10 james.driscoll-maceachron@azag.gov
11 kara.karlson@azag.gov

12 Attorneys for Defendant

13
14 **IN THE UNITED STATES DISTRICT COURT**
15
16 **FOR THE DISTRICT OF ARIZONA**
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18 The Arizona Libertarian Party and
19 Michael Kielsky,

20 Plaintiffs,

21 vs.

22 Michele Reagan,

23 Defendant.

Case No: CV-16-01019-PHX-DGC

**ANSWER OF DEFENDANT ARIZONA
SECRETARY OF STATE MICHELE
REAGAN**

24 Defendant Secretary of State Michele Reagan for her answer to the Verified
25 Complaint admits and denies the allegations as follows. Any allegation not specifically
26 admitted is denied.

27 1. The Secretary lacks knowledge or information sufficient to form a belief as
28 to the truth of the allegations contained paragraph 1, and therefore denies the same.

2. The Secretary admits that Michael Kielsky was on the general election
ballot as a presidential elector in 2008 and 2012. The Secretary denies that Michael

1 Kielsky appeared on Arizona's general election ballot in 2010. The Secretary lacks
2 knowledge or information sufficient to form a belief as to the remainder of the allegations
3 contained in paragraph 2, and therefore denies the same.

4 3. The Secretary admits that she is chief election Officer for Arizona and that
5 her business address is Office of the Secretary of State, Elections Division, 1700 West
6 Washington Street, 7th Floor, Phoenix, Arizona, 85007-2808. To the extent that
7 paragraph 3 attempts to characterize the Secretary's statutory duties, the statutes setting
8 out those duties speak for themselves.

9 4. The Secretary admits that venue is proper.

10 5. The Secretary admits that this Court has subject matter jurisdiction.

11 6. To the extent that paragraph 6 attempts to characterize A.R.S. § 16-801(A),
12 the statute speaks for itself.

13 7. To the extent that paragraph 7 attempts to characterize A.R.S. § 16-801 and
14 A.R.S. § 16-804, those statutes speak for themselves.

15 8. To the extent that paragraph 8 attempts to characterize A.R.S. § 16-804,
16 that statute speaks for itself.

17 9. To the extent that paragraph 9 attempts to characterize A.R.S. § 16-301,
18 A.R.S. § 16-302, and A.R.S. § 16-804(A), those statutes speak for themselves.

19 10. To the extent that paragraph 10 attempts to characterize A.R.S. § 16-311
20 and A.R.S. § 16-314, those statutes speak for themselves.

21 11. To the extent that paragraph 11 attempts to characterize A.R.S. § 16-321
22 and A.R.S. § 16-322, those statutes speak for themselves.

23 12. To the extent that paragraph 12 attempts to characterize A.R.S. § 16-321 as
24 it existed prior to being amended in 2015, that statute speaks for itself.

25 13. To the extent that paragraph 13 attempts to characterize A.R.S. § 16-322 as
26 it existed prior to being amended in 2015, that statute speaks for itself.
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1 14. To the extent that paragraph 14 attempts to characterize A.R.S. § 16-322 as
2 it existed prior to being amended in 2015, that statute speaks for itself.

3 15. To the extent that paragraph 15 attempts to characterize A.R.S. § 16-321,
4 that statute speaks for itself.

5 16. To the extent that paragraph 16 attempts to characterize A.R.S. § 16-322,
6 that statute speaks for itself.

7 17. The Secretary admits that HB 2608 amended A.R.S. §§ 16-321 and -322.
8 The remaining allegations in paragraph 17 refer to an exhibit attached to the Complaint.
9 The exhibit speaks for itself.

10 18. The Secretary admits that in March 2016, she published signature
11 requirements for partisan candidates pursuant to Sections 16-321 and 16-322. The
12 remaining allegation in paragraph 18 refers to an exhibit attached to the Complaint. The
13 exhibit speaks for itself. The Secretary further avers that her office updated the signature
14 requirements on May 18, 2016. The signature requirements are available by following
15 the links for Running for Federal Office, Running for Statewide Office, and Running for
16 Legislative Office at <http://www.azsos.gov/elections/running-office>.¹

17 19. The Secretary denies that a Libertarian candidate for the U.S. Senate or
18 statewide office needed to submit 134 signatures in 2014. Subject to footnote 1, the
19 Secretary admits that, in March 2016, the Secretary's website listed 3,203 as the
20 signatures necessary for a Libertarian candidate for the U.S. Senate or statewide office.
21 Paragraph 19 also characterizes A.R.S. §§ 16-321 and -322. Those statutes speak for
22 themselves. The remainder of the paragraph calls for a legal conclusion to which no
23 response is required.
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27 ¹ The signature requirements as modified on May 18, 2016 differ slightly from the
28 signature requirements referenced in the Complaint.

1 20. Subject to footnote 1, the Secretary admits that, in March 2016, the
2 Secretary's website listed minimum signature requirements for congressional candidates
3 that, depending on the congressional district varied from 527 to 782 signatures. The
4 Secretary denies the remainder of the paragraph.

5 21. The Secretary admits that a Libertarian candidate in Legislative District 1
6 had to gather 235 signatures in 2016 and that a Libertarian candidate in Legislative
7 District 5 had to gather 243 signatures in 2016. The Secretary denies the remainder of
8 the paragraph.

9 22. The Secretary lacks knowledge or information sufficient to form a belief as
10 to the truth of the allegations contained in paragraph 22, and therefore denies the same.
11 The allegations in paragraph 22 also refer to an exhibit attached to the Complaint. The
12 exhibit speaks for itself.

13 23. The Secretary lacks knowledge or information sufficient to form a belief as
14 to the truth of the allegations contained in paragraph 23, and therefore denies the same.
15 The allegations in paragraph 23 also refer to external Internet pages. The external
16 Internet pages speak for themselves.

17 24. The Secretary lacks knowledge or information sufficient to form a belief as
18 to the truth of the allegations contained in paragraph 24, and therefore denies the same.
19 The allegations in paragraph 24 also refer to an exhibit attached to the Complaint. The
20 exhibit speaks for itself.

21 25. The Secretary admits the number of voters registered with each party as of
22 January 1, 2016. The remaining allegation calls for a legal conclusion to which no
23 response is required.

24 26. The Secretary admits that, in 2014, a Democratic candidate for U.S. Senate
25 had to submit 4,804 signatures and that a Republican candidate for U.S. Senate had to
26 submit 5,651 signatures. Subject to footnote 1, the Secretary admits that, as of March
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1 2016, the Secretary's website listed the necessary number of signatures for a Democratic
2 candidate for U.S. Senate as 5,341 and the necessary number of signatures for a
3 Republican candidate for U.S. Senate as 5,790.

4 27. The Secretary admits that, in 2014, a Democratic candidate for
5 Congressional District 1 had to submit 1,395 signatures and that a Republican candidate
6 for Congressional District 1 had to submit 1,117 signatures. Subject to footnote 1, the
7 Secretary admits that, as of March 2016, the Secretary's website listed the necessary
8 number of signatures for a Democratic candidate for Congressional District 1 as 1,323
9 and the necessary number of signatures for a Republican candidate for Congressional
10 District 1 as 1,196. The remainder of the paragraph calls for a legal conclusion.

11 28. The Secretary admits that the signature requirements for Democratic
12 candidates in LD2, 3, 4, 7, 9, 10 and Republican candidates in LD1, 5, 6, 9, 10, 12, 13,
13 15, 17, 18, 22, 23, 25, and 28 are lower in 2016 than they were in 2014. Subject to
14 footnote 1, the Secretary admits that, as of March 2016, the signature requirement listed
15 on the Secretary's website for a Republican candidate in LD11 was one signature less
16 than the signature requirement in 2014. The Secretary admits that the signature
17 requirement for a Republican candidate in LD27 more than doubled between 2014 and
18 2016. The Secretary admits that the signature requirement for Libertarian candidates
19 increased between 2014 and 2016 but cannot verify the percentages in paragraph 28.

20 29. The Secretary lacks knowledge or information sufficient to form a belief as
21 to the truth of the allegations contained in paragraph 29, and therefore denies the same.

22 30. The Secretary admits that the Green Party is a recognized Party in Arizona
23 under A.R.S. § 16-801. To the extent that paragraph 30 attempts to characterize A.R.S.
24 §§ 16-322, -801, and -804, those statutes speak for themselves.
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1 31. Paragraph 31 calls for a legal conclusion to which no response is required.
2 To the extent that paragraph 31 attempts to characterize A.R.S. § 16-321 and A.R.S.
3 § 16-322, those statutes speak for themselves.
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5 32. The allegations in paragraph 32 refer to exhibits attached to the Complaint,
6 and those exhibits speak for themselves. To the extent that this paragraph attempts to
7 characterize A.R.S. § 16-322, that statute speaks for itself. The remainder of the
8 paragraph calls for legal conclusions to which no response is required.

9 33. The Secretary admits that Kim Allen was the Libertarian Candidate for
10 CD1 in 2012. The Secretary also admits that he received 15,227 votes. Subject to
11 footnote 1, the Secretary admits that, as of March 2016, the signature requirement listed
12 on the Secretary's website for a Libertarian candidate in CD1 was 636 and the signature
13 requirement listed on the Secretary's website for a Libertarian candidate in LD11 was
14 220. The Secretary denies the percentage included in paragraph 33. Paragraph 33 also
15 refers to an exhibit attached to the Complaint. The exhibit speaks for itself.

16 34. The Secretary admits that Rick Fowlkes was a Libertarian Candidate for the
17 Arizona Corporation Commission in 1988, 2004, 2006, and 2010. Subject to footnote 1,
18 the Secretary admits that, as of March 2016, the signature requirement listed on the
19 Secretary's website for a candidate for the Arizona Corporation Commission was 3,023.
20 The Secretary admits the percentage in paragraph 34. The allegations in paragraph 34
21 also refer to an exhibit attached to the Complaint. The exhibit speaks for itself.

22 35. The Secretary admits that Ernest Hancock was a Libertarian candidate for
23 U.S. Senate in 2004. The Secretary admits that Ernest Hancock was a Libertarian
24 candidate for Secretary of State in 2006. The Secretary admits that Ernest Hancock has
25 been a Libertarian candidate for the U.S. House of Representatives at least once. The
26 Secretary lacks knowledge or information sufficient to form a belief as to the truth of
27 whether Ernest Hancock ran for Maricopa County Recorder. Subject to footnote 1, the
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1 Secretary admits that, as of March 2016, the signature requirement listed on the
2 Secretary's website for a candidate for statewide office was 3,023. The Secretary also
3 admits the percentage in paragraph 35. The remaining allegations in paragraph 35 refer
4 to an exhibit attached to the Complaint. The exhibit speaks for itself.

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6 36. The Secretary admits that Jack Heald received 12,857 votes for state
7 representative in 2006. Subject to footnote 1, the Secretary admits that, as of March
8 2016, the signature requirement listed on the Secretary's website for a Libertarian
9 candidate for CD9 in 2016 was 675. The Secretary denies the remaining allegations in
10 paragraph 36. To the extent that the allegations in paragraph 36 refer to an exhibit
11 attached to the Complaint, the exhibit speaks for itself.

12 37. The Secretary admits that Michael Kielsky was the Libertarian candidate
13 for CD5 in 2004. The Secretary admits that Michael Kielsky was the Libertarian
14 candidate for LD25 in 2014. The Secretary denies that Michael Kielsky received more
15 than 25% of the votes in the general election in either 2004 or 2014. The Secretary lacks
16 knowledge or information sufficient to form a belief as to the truth of the allegations
17 regarding county elections in paragraph 37 and therefore denies the same. The
18 allegations in paragraph 37 also refer to an exhibit attached to the Complaint. The exhibit
19 speaks for itself.

20 38. The Secretary admits that Christopher Rike was the Libertarian Candidate
21 for CD4 in 2014. The Secretary denies that Christopher Rike received a total of 2,531
22 votes in 2014. Subject to footnote 1, the Secretary admits that, as of March 2016, the
23 signature requirement listed on the Secretary's website for a Libertarian candidate for
24 CD4 in March 2016 was 717. The Secretary denies the percentage given for CD4 in
25 paragraph 38. The Secretary lacks knowledge or information sufficient to form a belief
26 as to the truth of the remaining allegations contained paragraph 38, and therefore denies
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1 the same. To the extent that paragraph 38 refers to an exhibit attached to the Complaint,
2 the exhibit speaks for itself.

3 39. The Secretary admits that David Schlosser was the Libertarian candidate
4 for CD1 in 2006 and that he received approximately 5% of the vote. Subject to
5 footnote 1, the Secretary admits that, as of March 2016, the signature requirement listed
6 on the Secretary's website for a Libertarian candidate for CD1 was 636. The Secretary
7 denies the percentage in paragraph 39. The allegations in paragraph 39 also refer to an
8 exhibit attached to the Complaint. The exhibit speaks for itself.
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10 40. Subject to footnote 1, the Secretary admits that, as of March 2016, the
11 signature requirement listed on the Secretary's website for a Libertarian candidate for
12 CD6 was 782. The Secretary denies the remaining allegations in paragraph 40. The
13 allegations in paragraph 40 also refer to an exhibit attached to the Complaint. The exhibit
14 speaks for itself.

15 41. The allegations in paragraph 41 refer to exhibits attached to the Complaint.
16 The exhibits speak for themselves. To the extent that paragraph 41 attempts to
17 characterize A.R.S. § 16-322, that statute speaks for itself. The remainder of the
18 paragraph calls for legal conclusions and presents speculation to which no response is
19 required.

20 42. The allegations in paragraph 42 refer to exhibits attached to the Complaint.
21 The exhibits speak for themselves. To the extent that paragraph 42 attempts to
22 characterize A.R.S. § 16-322, the Secretary denies those characterizations. The
23 remainder of the paragraph calls for legal conclusions and presents speculation to which
24 no response is required.

25 43. The Secretary denies the allegations in paragraph 43. To the extent that the
26 allegations in paragraph 43 refer to an exhibit attached to the Complaint, the exhibit
27 speaks for itself.
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1 44. To the extent that paragraph 44 attempts to characterize the court decisions
2 in *Arizona Libertarian Party v. Bayless*, 351 F.3d 1277 (9th Cir. 2003) and *Arizona*
3 *Libertarian Party v. Brewer*, No. 02-144-TUC-RCC (D. Az. Sept. 27, 2007) (unpublished
4 order), those decisions speak for themselves.

5 45. The Secretary lacks knowledge or information sufficient to form a belief as
6 to the truth of the allegations contained paragraph 45, and therefore denies the same. The
7 allegations in paragraph 45 refer to exhibits attached to the Complaint. The exhibits
8 speak for themselves.

9 46. The allegations in paragraph 46 call for legal conclusions and speculation
10 that require no response. To the extent that a response is required, the Secretary denies
11 the same. To the extent that paragraph 46 attempts to characterize A.R.S. § 16-322 and
12 A.R.S. § 16-804(B), those statutes speak for themselves. The remaining allegations in
13 this paragraph refer to an exhibit attached to the Complaint. The exhibit speaks for itself.

14 47. To the extent that paragraph 47 attempts to characterize A.R.S. § 16-804(B)
15 and A.R.S. § 16-801, those statutes speak for themselves. Paragraph 47 also contains
16 legal conclusions, to which no response is required. The Secretary lacks knowledge or
17 information sufficient to form a belief as to the truth of the remaining allegations
18 contained paragraph 47, and therefore denies the same. Paragraph 47 also refers to an
19 exhibit attached to the Complaint. The exhibit speaks for itself.

20 48. Paragraph 48 states a position to which no response is required. To the
21 extent a response is required, the Secretary denies the allegations in this paragraph.

22 49. Paragraph 49 calls for a legal conclusion to which no response is required.

23 50. Paragraph 50 calls for a legal conclusion to which no response is required.

24 51. Paragraph 51 calls for a legal conclusion to which no response is required.

25 52. Paragraph 52 states a position to which no response is required. To the
26 extent a response is required, the Secretary denies the allegations in this paragraph.
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53. Paragraph 53 calls for a legal conclusion to which no response is required.

54. Paragraph 54 calls for a legal conclusion to which no response is required.

55. Paragraph 55 calls for a legal conclusion to which no response is required.

56. Paragraph 56 states a position to which no response is required. To the extent a response is required, the Secretary denies the allegations in paragraph 56.

57. Paragraph 57 calls for a legal conclusion to which no response is required.

58. Paragraph 58 calls for a legal conclusion to which no response is required.

59. Paragraph 59 calls for a legal conclusion to which no response is required.

60. Paragraph 60 states a position to which no response is required. To the extent a response is required, the Secretary denies the allegations in paragraph 60.

61. To the extent that paragraph 61 attempts to characterize A.R.S. § 16-321 and A.R.S. § 16-322, those statutes speak for themselves.

62. The allegation in paragraph 62 calls for unverified factual speculation, and the Secretary therefore denies the same.

63. To the extent that paragraph 63 attempts to characterize A.R.S. § 16-322 and A.R.S. § 16-801, those statutes speak for themselves. Paragraph 47 also contains legal conclusions, to which no response is required.

64. To the extent that paragraph 64 attempts to characterize A.R.S. § 16-321 and A.R.S. § 16-322, those statutes speak for themselves.

65. Paragraph 65 calls for a legal conclusion to which no response is required.

66. Paragraph 66 calls for a legal conclusion to which no response is required.

AFFIRMATIVE DEFENSES

A. Plaintiff's claim is barred by laches.

B. At the time of this Answer, the Secretary does not know which, if any, additional affirmative defenses may be supported by facts that may become

1 available at a later date. The Secretary reserves the right to raise additional
2 affirmative defenses should relevant information become available.

3 WHEREFORE, having fully answered the Complaint, the Secretary prays for:
4

- 5 1. Dismissal of the Complaint with prejudice.
- 6 2. Entry of judgment in favor of the Secretary and that Plaintiff takes
7 nothing as a result thereof, including declaratory or injunctive relief.
- 8 3. Plaintiff to take nothing in the form of attorneys' fees or taxable costs
9 from the Secretary.
- 10 4. Any other relief this Court deems appropriate.

11 Respectfully submitted this 1st day of July, 2016.

12 Mark Brnovich
13 Attorney General

14 s/ James Driscoll-MacEachron
15 James Driscoll-MacEachron
16 Kara M. Karlson
17 Assistant Attorneys General
18 Attorneys for Defendant
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1 I certify that I electronically transmitted the foregoing document to the Clerk's Office
2 using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to
the CM/ECF registrants on record in this matter this this 1st day of July, 2016.

3
4 **COPY** of the foregoing mailed
this 1st day of July, 2016 to:

5 Oliver B. Hall
6 Center for Competitive Democracy
1835 16th St. NW, #5
7 Washington, DC 20009
Attorney for Plaintiffs

8 s/ Maureen Riordan
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16 #5156434 v2
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